

REMARKS

Reconsideration and withdrawal of the rejections of the claims set forth in the Official Action of March 31, 2005, are respectfully requested in view of the following remarks.

Status of the Claims

Claims 1-22 are currently pending.

Claims 1-20 were rejected under 35 U.S.C. § 103(a).

Claims 21 and 22 are new.

Rejections under 35 U.S.C. § 103

Claims 1-4, 7 and 11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,381,583 to Kenney (the “Kenney patent” or “Kenney”) in view of “You Are About To Travel Into Another Reality,” Tom Ashbrook, Boston Globe, July 28, 1988, page 5 (the “Reality Article”).

As set forth at page 2 of the patent specification of the instant application, in connection with managing operations of a trading market, such as the New York Stock Exchange®, it is important for management personnel to be aware of exceptional events relating to business activity. Exceptional events include unusual trading activity in a particular security, or unusual systems activity such overload of system components or component failures. In addition, exchange managers, compliance officers, security traders and analysts have a need for quick and easy access to the enormous volume of data which characterize various aspects of the financial market, such as the real time price and volume of a traded security, as well as outstanding booked orders.

The Kenney patent upon which the Examiner relies is generally directed to an interactive electronic shopping system so that a customer can see replicas of goods available within a shopping facility such as a grocery store, restaurant or office. The Kenney patent discloses accessing a predetermined data base of encoded electrical signals representing a shopping facility and available products. (Kenney, col. 3, lns. 2-5). Kenney discloses accessing data that has been previously input into a single database. (Kenney, col. 5, lns. 45-55). Kenney does not deal with the issues and complexities unique to modeling the extraordinary dynamics of a trading market or exchange.

The Reality Article upon which the Examiner relies, in combination with the Kenney patent, does not cure the deficiencies of Kenney. Indeed, the “Reality Article” is a misnomer and is really anything but -- in other words, the article admittedly deals with fantasy -- not reality. What the article is talking about is “Instead of sensing the physical world, the virtual reality voyager will sense computer-generated input -- visual, aural, tactile and eventually more - - via a body suit with what researchers predict will be ever-increasing persuasiveness, subtlety and capacity for interaction.” (Reality Article, p. 3). In the midst of prophetic examples that include virtual family reunions and 3-D, electronic “hands-on” exhibits of natural history, science or sculpture, the Article mentions in passing that “exasperated brokers on Wall Street’s crowded trading floors” allegedly “have inquired about ‘virtual reality’ stock trading centers that brokers could electronically inhabit from dispersed locations.” The Article does not teach or suggest how to build, represent or model anything. The Reality Article wholly lacks any disclosure or teaching -- enabling or otherwise -- of a method for displaying data representing a three dimensional model -- let alone one that is capable of representing the operation of an exchange. Indeed, an attribute that the Reality Article and the Kenney patent incontestably share

is that neither teaches, suggests or in any way enables a person of ordinary skill in the art how to display data representing the operation of an exchange or trading floor in all its dynamics and complexities. The issues with modeling a grocery store are at a different order of magnitude in both number and complexity than those of an exchange which implicates voluminous real time and historical data.

At best, the 1988 Reality Article, assuming it was read ten years later when the patent application for which the Kenney patent claims priority was first filed, could possibly have led a person of ordinary skill in the art to further investigate the feasibility of virtual reality stock markets generally, which is an “obvious-to-try” argument that does not impact patentability. As stated by the Federal Circuit:

An “obvious-to-try” situation exists when a general disclosure may pique the scientist's curiosity, such that further investigation might be done as a result of the disclosure, but the disclosure itself does not contain a sufficient teaching of how to obtain the desired result, or that the claimed result would be obtained if certain directions were pursued. *See generally In re O'Farrell*, 853 F.2d 894, 903, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988) (defining obvious-to-try as when prior art gives “only general guidance as to the particular form of the claimed invention or how to achieve it”).

In re Eli Lilly & Co., 902 F.2d 943, 945 (Fed. Cir. 1990). The Federal Circuit has “consistently held that ‘obvious to try’ is not to be equated with obviousness under 35 U.S.C. § 103. *Gillette Co. v. S.C. Johnson & Son, Inc.*, 919 F.2d 720, 725 (Fed. Cir. 1990).

Because the Kenney patent and the Reality Article, either alone or in combination do not teach or suggest to a person of ordinary skill in the art how to practice the claimed invention of representing an exchange, the obviousness rejection should be withdrawn.

Claims 2-4 and 7 depend from what is now believed to be allowable Claim 1 and should be allowable for at least the reasons recited for Claim 1 above. As such, the rejections of Claims 1-4 and 7 under 35 U.S.C. § 103(a) should be withdrawn.

Claims 5, 6, 8-10 and 15-20 have been rejected under § 103(a) as being unpatentable over U.S. Patent No. 6,381,583 to Kenney (“Kenney”) in view of the Reality Article, and further in view of U.S. Patent No. 4,412,287 to Braddock (“Braddock”).

Braddock is generally directed towards an order execution system for the entry of stock orders, whereby the system displays customer actual orders and past transactions. (Braddock, col. 3, lns. 23-32). Braddock further discloses sorting the market orders. (See Braddock, col. 22, lns. 38-68). As with the Reality Article and the Kenney patent, Braddock does not teach, suggest or in any way enable a person of ordinary skill in the art how to display data representing the operation of an exchange or trading floor in all its dynamics and complexities.

Because the Braddock patent, the Kenney patent and the Reality Article, either alone or in combination do not teach or suggest to a person of ordinary skill in the art how to practice claim 5, the obviousness rejection should be withdrawn.

Claims 6 and 8-10 depend from what is now believed to be allowable Claim 5 and should be allowable for at least the reasons recited for Claim 5 above. As such, the rejections of Claims 5, 6, and 8-10 under 35 U.S.C. § 103(a) should be withdrawn.

Moreover, claim 8 specifically recites (1) “analyzing” data representing trading of securities, (2) “identifying exceptional conditions relating thereto,” (3) “generating image portions representing said exceptional conditions,” and (4) “displaying said exceptional condition image portions in said two-dimensional display in correlation with display of models

portions representing said trading posts at which said securities are traded.” None of these four elements is taught or suggested by any of the references, alone or in combination, upon which the Examiner relies. Indeed, the Examiner does not point to any passage in the references upon which he relies that recites these features.

Nor is the limitation in claim 10 found or suggested in any of the reference, alone or in combination. Claim 10 recites (1) monitoring data processing systems used in an exchange, (2) identifying (a) exceptional conditions in the data processing systems and (b) the locations affected by the exceptional conditions. None of these elements is taught or suggested by any of the references, alone or in combination, upon which the Examiner relies.

Claim 11 is the system claim substantially corresponding to method Claim 1 but also recites that the data is normalized. Normalization is not disclosed or suggested in the Kenney patent, the Reality Article or the Braddock patent. Nor is there any indication that normalization is needed or desirable for the applications set forth in the Kenney patent, the Reality Article or the Braddock patent. For this reason and because the remarks relating to claim 1, set out above, are applicable to claim 11, the rejection to claim 11 under 35 U.S.C. § 103(a) should likewise be withdrawn.

Claims 12-14 depend from claim 11 and should be patentable for at least those reasons recited above. Thus, the rejection to claims 12-14 under 35 U.S.C. § 103(a) should also be withdrawn.

Claim 15 is the system claim substantially corresponding to method Claim 5. The remarks relating to claim 5, set out above, are equally applicable to Claim 15, and thus the rejection to claim 15 under 35 U.S.C. § 103(a) should likewise be withdrawn.

Claims 16-20 depend from claim 15 and should be patentable for at least those reasons recited above. Thus, the rejection to claims 16-20 under 35 U.S.C. § 103(a) should also be withdrawn.

In addition, claim 18 specifically recites a system configured and programmed to (1) “analyze” data representing trading of securities, (2) “identify[] exceptional conditions relating thereto,” (3) generate image portions representing said exceptional conditions,” and (4) “display said exceptional condition image portions in said two-dimensional display in correlation with display of models portions representing said trading posts at which said securities are traded.” None of these four elements is taught or suggested by any of the references, alone or in combination, upon which the Examiner relies and certainly there is no disclosure or suggestion to combine them with the system for displaying data set forth in claim 15 upon which claim 18 depends.

Nor is the limitation in claim 19, which relates to exceptional condition image portions that are selectable and operative when selected to display further data concerning the exceptional condition, found or suggested in any of the references, either alone or in combination. Accordingly, the rejection of claim 19 should be withdrawn.

Claim 20, in addition to being patentable for the reasons set forth above with respect to claim 15, the claim upon which claim 20 depends, recites a system for displaying data that is further configured and programmed to (1) monitor data processing systems used in an exchange, (2) identify (a) exceptional conditions in the data processing systems and (b) the locations affected by the exceptional conditions, (3) generate image portions representing exceptional conditions of the data processing systems, and (4) display the exceptional condition image portions in said two dimensional display in correlation with the location of the exchange.

None of these elements is taught or suggested by any of the references, alone or in combination, upon which the Examiner relies. Thus, the rejection of claim 20 should be withdrawn.

Applicants have added new claims 21 and 22, which depend from claim 15 and thus are patentable for the reasons set forth above with respect to claim 15. However, claims 21 and 22 are believed to be patentable for additional reasons. Kenney is generally directed to an interactive electronic shopping system such that a customer can see replicas of goods available within a shopping facility. Kenney discloses accessing a predetermined data base of encoded electrical signals representing a shopping facility and available products. (Kenney, col. 3, lns. 2-5). Kenney discloses accessing data that has been previously input into a single database. (Kenney, col. 5, lns. 45-55). New claims 21 and 22, however, recite receiving and maintaining in a computer memory real time and historical data integrated from several sources representing trading of securities. Kenney does not disclose or suggest real time data integrated from several sources. More importantly, none of the references upon which the Examiner relies teaches or suggests a system for displaying data representing the operation of an exchange that, *inter alia*, receives and maintains in a computer memory real time and historical data integrated from several sources representing trading of securities. The Reality Article and the Braddock patent do not cure the deficiencies of Kenney, and thus new claims 21 and 22 of the instant application are believed to be in condition for allowance.

Additionally, claim 22 is believed to be allowable because it is also directed to representing normalized market data. None of the references upon which the Examiner relies teaches or suggests a system for displaying data representing the operation of an exchange that, *inter alia*, receives and maintains in a computer memory real time and historical data integrated



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from several sources representing trading of securities and normalized market data.

Accordingly, claim 22 is believed to be in condition for allowance.

CONCLUSION

Based on the foregoing, Applicants submit that the present application is now in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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Gary M. Butter
Patent Office Reg. No. 33,841

30 Rockefeller Plaza
New York, NY 10012-4498

Attorneys for Applicants
(212) 408-2500